

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-103-10043R

Parcel No. 52907D04

Kelly Boyer,

Appellant,

vs.

City of Davenport Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on November 8, 2019. Kelly Boyer is self-represented and asked that the appeal proceed without a hearing. City Attorney Thomas Warner represents the City of Davenport Board of Review.

Kelly Boyer owns a residential property located at 4020 Greenway Drive, Davenport, Iowa. Its January 1, 2019, assessment was set at \$141,360, allocated as \$26,390 in land value and \$114,970 in dwelling value. (Ex. A).

Boyer petitioned the Board of Review contending that the assessment is not equitable as compared with assessments of other like property and that it is assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition.

Boyer then appealed to PAAB re-asserting the same claims.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a two-story home built in 2006. It has 1152 square feet of gross living area, a full unfinished basement, a deck, and a two-car attached garage. The improvements are listed in normal condition with a 4+10 Grade (average quality). The site is 0.387 acres. (Ex. A).

Boyer purchased the subject property in 2014 for \$130,000. The sales condition code (D12), as well as notes on the property record card indicates the transaction was the result of a forced sale or foreclosure. (Ex. A). Boyer believes the correct value of the subject property is \$134,970, which was the 2015 through 2018 assessed value. (Appeal, Ex. A, p. 4).

Boyer listed five properties on the petition to the Board of Review and reported they are all assessed for less than the subject property. (Ex. C). On PAAB's own motion we took judicial notice of the beacon summary sheets for Boyer's comparables. (Exs. 1-5). The following table summarizes the comparable properties.

Comparable	Design	Site Size (Acres)	Year Built	Gross Living Area (SF)	Basement Finish	Assessed Value
Subject Property	2-Sty	0.387	2006	1152	None	\$141,360
1 - 1617 Meadowbrook Ct	1-Sty	0.160	1992	1000	None	\$114,100
2 - 1618 Meadowbrook Ct	1-Sty	0.350	1996	1080	None	\$128,610
3 - 1121 N Pioneer St	Split-Foyer	0.140	1978	958	482 Rec Rm	\$125,890
4 - 4313 W 13th St	Split-Foyer	0.160	1977	958	400 Rec Rm	\$125,000
5 - 5508 N Linwood Ave	Split-Foyer	0.150	1978	1002	340 Rec Rm	\$106,010

Only one of Boyer's comparable properties has recently sold. Comparable 4 sold in July 2018 for \$111,522. (Ex. 4). Although the beacon summary sheet lists this as a normal transaction, we note it transferred from a lending institution, First Financial Group, LLC, that took possession of the property in 2014 as the result of a foreclosure, forfeiture, or Sherriff's Sale. For this reason, and without further information about the 2018 transaction, we question whether it truly reflects a normal transaction as contemplated by Iowa Code section 441.21(1).

Although all of the properties have less gross living area than the subject property, they are reasonably comparable in size. However, all are different style properties, with all of their reported gross living area being on the main level. (Exs. 1-5). In comparison, the subject property's main level is half the size of the comparable properties at 576 square feet. (Ex. A, p. 2). The subject and Comparables 3 and 4 have 1 full bath and 1 half bath, whereas the remaining comparables only have one full bath.

Lastly, all of the comparable properties are at least 10 years older than the subject property, with Comparables 3, 4, and 5 being roughly 30 years older. Older homes would have a greater level of depreciation that would affect the assessed values.

Other than the required exhibits, the Board of Review did not offer any other evidence.

Analysis & Conclusions of Law

Boyer contends the subject property is inequitably assessed and over assessed as provided under Iowa Code section 441.37(1)(a)(1 & 2). Boyer bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Here, we find Boyer did not demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2018) and assessed (2019) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales and current year assessments of the subject property and comparable properties. It is insufficient to simply compare the subject property's assessed value to the assessments of other properties.

Boyer offered one property that sold in 2018 but its ownership transferred from a lending institution, which typically would render the sale abnormal. See § 441.21(1). Therefore, we find this sale cannot be used for the *Maxwell* test. Moreover, to succeed in an equity claim under *Maxwell*, more than one comparable property must be analyzed. *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 (Iowa Ct. App. Aug. 7, 2019). We find Boyer has not established the subject property is inequitably assessed under *Maxwell*.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

Boyer did not provide any evidence of the property's value such as comparable sales, an appraisal, or a Comparable Market Analysis (CMA), which is typical evidence to support a claim of over assessment. Rather Boyer simply asserted the January 1, 2019 assessment should be the same as their 2018 assessed value, which had remained unchanged since 2015.

Viewing the record as a whole, we find Boyer failed to support the claims brought forth.

Order

PAAB HEREBY AFFIRMS the City of Davenport Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

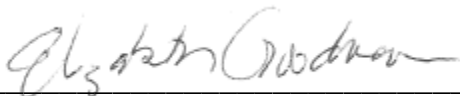
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

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City of Davenport Board of Review by eFile